IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

-

PRESENT

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

-

W.A.Nos.1848, 1884 and 1910 OF 2004

-

WRIT APPEAL No.1848 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/11/2004 in WP NO : 20121 OF 2004 on the file of the High Court)

Between:

Mullapudi Srinivas Kumar Choudary, S/o. Krishna Rao,
R/o. Purushothapalli, West Godavari District.

..... APPELLANT

AND

-

1 The Government of A.P., rep by its Secretary,

Industries and Commerce Department,
Secretariat, Hyderabad.
2 The District Level Committee, rep by its Chairman, West Godavari District.
3 The District Panchayat Officer, West Godavari District, at Eluru.
4 Sai Babu Reddy, S/o. Jagadhal Reddy,
R/o. Pekeru, Eragavaram Mandalam,
W.G. District.

.....RESPONDENTS

Counsel for the Appellant: Smt.N.SHOBA

Counsel for Respondent Nos.1to3: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for Respondent No.4 Sri C.V.MOHAN REDDY

WRIT APPEAL NO : 1884 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/11/2004 in WP No.19747 OF 2004 on the file of the High Court)

Between:

Kundula Ganapathy Rao, S/o. Narasimha Murthy,
R/o. Teeparu Village, W.G.District.

..... APPELLANT

AND

1 The Govt of A.P., rep. by its Secretary, I&C., Dept., Secretariat, Hyderabad.
2 The District Level Committee, rep. by its Chairman, W.G.District.
3 The District Panchayat Officer, W.G.District at Eluru.
4 Sai Baba Reddy, S/o. Jagadhal Reddy,
Pekeru, Eragavaram Mandalam, W.G.District.

.....RESPONDENTS

Counsel for the Appellant: S*mt.*N.SHOBA

Counsel for Respondent No*s.1to3*: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for Respondent No.4 : Sri C.V. MOHAN REDDY

WRIT APPEAL No.1910 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/11/2004 in WP NO : 19735 OF 2004 on the file of the High Court.)

Between:

K.V.V. Satyanarayana,

S/o Narasimha Murthy,

R/o Teeparu village, Peraveli Mandal,

W.G.District

..... APPELLANT

AND

1 The Govt. of A.P. Rep.by its Secretary,

Industries and Commerce Department, Secretariat,
Hyderabad.
2 The District Level Committee, rep.by its Chairman, West Godavari District.
3 The District Panchayat officer, West Godavari District, at Eluru.
4 Sai Baba Reddy, S/o.Jagadhal Reddy,
R/o.Pekeru, Eragavaram Mandalam,
W.G.District.

.....RESPONDENTS

Counsel for the Appellant: Smt. K.N.VIJAYA LAXMI

Counsel for Respondent Nos.1to3: GP FOR INDUSTRIES & COMMERCE

Counsel for Respondent No.4 : SRI C.V. MOHAN REDDY

The Court made the following :

–

–

THE HONOURABLE SRI JUSTICE B.SUDERSHAN REDDY

AND

THE HONOURABLE SRI JUSTICE C.V. RAMULU

W.A.Nos.1848, 1884 and 1910 OF 2004

COMMON JUDGMENT: (*Per* ***C.V.RAMULU, J)***

These three Writ Appeals arise out of a common Judgment of the learned single Judge in W.P.Nos.19735 of 2004 and batch, dated 18-11-2004, wherein ten writ petitions filed by various individuals and Societies seeking almost the same relief were dismissed.

The writ petitions were filed seeking a Mandamus declaring the action of respondents 1 to 3 in confirming the auctions held on 20-10-2004 in favour of the 4th respondent in pursuance of the Notification dated 3-10-2004 for West Godavari district and not confirming the same in favour of the petitioners-appellants as illegal, arbitrary, unjust and contrary to Rule 9 of the A.P. Minor Mineral Concession Rules,1966 (for short 'the Rules').

The District Level Committee of West Godavari District notified sand bearing areas and issued auction Notification Nos.4040/04, 5101/04 and 5102/04, dated 3-10-2004 proposing to conduct auction to the sand bearing reaches – reach-wise, package-wise and district-wise -respectively on 20-10-2004. The appellants-writ petitioners had participated in the auction. All the 22 reaches as a single package fetched bid amount of Rs.2,73,50,000/-, 6 packages fetched Rs.1,87,63,639/- and 22 reaches independently put together fetched Rs.2,80,98,692/-. The bidders had to pay 25% of the knocked down amount on the immediate next working day i.e. 23-10-2004, since 21st and 22nd of October,2004 were public holidays. Auctions were knocked down in respect of 18 bidders where 22 reaches were independently auctioned. Since only 8 bidders came forward to pay 25% of the knocked down amount and the remaining bidders had not turned up, the bidder, who offered Rs.36,50,000/- against the minimum amount/upset price of Rs.2,50,000/- to the Parikkilanka reach, submitted a letter dated 23-10-2004 stating that he participated in the auction and his companion raised bid upto Rs.36,50,000/- without his

knowledge, but expressed inability to pay the knocked down amount and requested for cancellation of auction. As the individual bidders have not come forward to deposit 25% of the knocked down amount till 5.00 p.m. on 23-10-2004, the District Level committee, after reviewing the matter, called upon the highest bidder in respect of the district package i.e. 4th respondent herein, whether he could enhance the bid amount equal to the amount of all the 22 reaches independently fetched. Respondent No.4 accepted the same and deposited 25% of the knocked down amount on 24-10-2004. On such deposit, confirmation was issued in his favour – District Package - which led to filing of the writ petitions.

Learned single Judge after elaborate consideration of the matter, came to the conclusion that there is no material on record to show that the bid amount fetched in the third method was low and would fetch higher amounts, if re-auctioned. The entire edifice of the writ petitions is based on the challenge to the increase of bid amount fetched in District Package amounts to negotiation with respondent No.4, who failed to deposit 25% of bid amount on the next day. There was no material to show that the tender price was understated and Respondent No.4's bid was knocked down on 20-8-2004. Thus, the learned single Judge held that in the absence of the same, it is not possible for the Court to accept that the authorities acted unfairly or irrationally in confirming the highest bid fetched in the District Package increasing the bid amount to that of individual reaches.

At the outset, it may be noted that Writ Appeal No.1848 of 2004 is filed against W.P.No.20121 of 2004, W.A.No.1884 of 2004 against W.P.No.19747 of 2004 and W.A.No.1910 of 2004 against W.P.No.19735 of 2004. Learned counsel for the appellants mainly challenged the orders impugned in the writ petitions on the ground that the auction was knocked down on 20-10-2004 in favour of the 4th respondent, but he did not pay 25% of the knocked down amount as required under the Rules on the next day and paid only on 23-10-2004. On 24-10-2004, when the bid was offered to the 4th respondent, all the bidders participated in the District package could have been invited for negotiations and negotiating with the 4th respondent exclusively was bad in law.

Sri D. Prakash Reddy, learned senior counsel appearing for the appellant in W.A.No.1910 of 2004, submitted that the tender-cum-auction notification dated 3-10-2004 is a composite notification contemplating three methods of auctioning 22

reaches in the district; the first method was auctioning all the 22 reaches independently, the second was auctioning them in six packages and the third was auctioning all the 22 reaches as single package. The District Level Committee in its meeting held on 21-10-2004 resolved to ask the 18 bidders, who participated in the bidding of individual reaches through the first method, to pay 25% of the knocked down amount before 5.00 p.m. on 23-10-2004, since the total bid amount derived in this method was the highest one. Therefore, it must be deemed that only the first method was favoured and insofar as the other two methods was concerned, the tenders were rejected. Therefore, the question of passing another resolution on 24-10-2004 for issuance of confirmation in favour of the highest bidder of the District package after payment of 25% of the knocked down amount does not arise. Once there was a rejection of the individual packages, the revival of District package does not arise. The District Level Committee ought to have reauctioned the whole thing inviting fresh tenders. It is also stated by the learned senior counsel that the auctions were deemed to have been knocked down on 20-10-2004 itself and the question of postponing and taking a decision to invite the 4th respondent for negotiations does not arise. It must be deemed that the auction was knocked down in favour of the 4th respondent on 20-10-2004 and he was supposed to pay 25% of the bid amount on or before 23-10-2004. Since he had not paid the amount within that time, the appellant in W.A.No.1910 of 2004 would have been offered to pay 25% of the amount being the next highest bidder. Not accepting such a plea was bad in law. Even if the 4th respondent was called to accept the bid by offering highest amount, which would have fetched in the first method of individual reaches, opportunity should have been given to all the 8 bidders, who participated in the third method of district as one package and offering it only to the 4th respondent is arbitrary and illegal.

Smt. N. Shobha, learned counsel for the appellants in Writ Appeal Nos.1848 and 1884 of 2004, stated that the appellants have participated in the first method of auctioning 22 reaches separately. Of course, only 18 bidders have participated and for 4 reaches, nobody participated in the auction. Among 18 bidders, only 8 have deposited 25% of the knocked down amount. The appellants have also deposited the amounts against their respective reaches. Therefore, the same could have been confirmed in their favour, since they have also deposited 25% of the amount as required under the Rules. But, such course of action was not adopted and the official

respondents have taken a decision to switch over to the third method of district as a unit and offered it to the 4th respondent herein by way of negotiations with him. Firstly, the very switching over to the district as one package method was illegal, since the appellants have offered 25% of the bid amount, may be a few of the bidders have not participated or they have inflated the bid amount and they have not come forward to pay 25% of the knocked down amount. If that is so, they could have finalized the bids in favour of the appellants, who had paid 25% of the amount promptly and insofar as rest of the reaches was concerned, the auction could have been cancelled and the authorities could have called for fresh tenders. Instead of this, they have switched over to the third method and by way of negotiations with the 4th respondent, it was finalized in his favour. If really they were interested in fetching more revenue to the State, they could have invited one and all, if necessary the bidders of all reaches of all methods for negotiations along with the 4th respondent and there could have been a many bidding and whoever offer more amount would have been successful. This method was not followed and there was something like a private negotiations with the 4th respondent and since the 4th respondent offered the amount, which was equivalent to the amount offered by the bidders for all the 22 reaches separately put together, the auction was confirmed in his favour. Such a course of action is not permissible under the Rules.

Whereas, the learned Government Pleader appearing for the official respondents submitted that the composite method of inviting tenders as notified is permissible under Rule 9-B (2) of the Rules and it was followed for augmenting the revenues of the State. For the previous 3 to 4 years, the Government was getting revenue of only Rs.80.00 lakhs for the entire district i.e. for the 22 individual reaches put together. By the present method, Rs.2,80,00,000/- is the income for the State, since the first method of 22 individual reaches failed in view of the fact that for 4 of the reaches, there was no bidding and though there were bidders for the other 18 reaches, some of them have inflated the amounts only to frustrate the tenders and only a few of them numbering 8 had paid 25% of the bid amount. Thus, the first method became unworkable and as such, the district level committee had taken a decision on 24-10-2004 to switch over to the third method of district package and invited the highest bidder - 4th respondent herein – and only to ensure for maximum amount as was

being quoted for the individual reaches put together i.e. Rs.2.80 crores, the 4th respondent was asked to pay that amount and he readily accepted. Therefore, it was offered to him on 24-10-2004 and he had paid 25% of the knocked down amount within 24 hours thereafter. As such, the procedure followed by the official respondents was neither arbitrary nor illegal and there were no negotiations as such. Only to ensure the maximum amount, the 4th respondent was asked to raise the amount and he readily accepted and none of the provisions of the Rules were violated as stated by the learned counsel for appellants.

Sri C.V. Mohan Reddy, learned counsel appearing for the 4th respondent, contended that absolutely there is no illegality or irregularity committed by the learned single Judge in coming to the conclusion that the writ petitions are devoid of merits and liable to be dismissed. It is not the case of the appellants that there was any procedural lacuna in publishing the notification or there was no transparency in conducting the auction. Therefore, it is not available for the appellants to argue that the notification was issued contrary to the Rules or the procedure adopted by the official respondents is bad in law, particularly having participated in the tenders, the appellants could not have complained saying that the notification and the procedure followed were *ultra vires* of the Rules, especially at this stage. The notification was issued in consultation with the District Level Committee as per the Rules. Even if the same is *ultra vires*, at this point of time, the appellants-writ petitioners cannot raise such an issue, since they participated in the auction with full knowledge. Even if there are certain irregularities in conducting the auction, the only thing that this Court can examine is as to whether there was any prejudice caused to the public interest. Switching over from one method to other method is contemplated in the notification itself. Therefore, the official respondents have followed the method, which is advantageous and which was fetching more revenue to the State. In fact, the very notification itself contemplates that best of the modes can be followed to protect the revenue of the State. Under Rule 9-B(2)(b) of the Rules, the District Level Committee is the ultimate authority and it had taken decision in the best interest of the State. Absolutely, there is no scope for any negotiations in this case. The 4th respondent being the highest bidder and to protect the revenue of the State, the official respondents asked him to deposit the amount as was being fetched for the 22 individual reaches put together. Thus, no prejudice was caused either to the public interest or to the appellants. The minor infractions, if any, cannot be taken into

consideration for the purpose of issuance of a writ. Only when the first method of bidding failed, the 4th respondent was invited to accept the bid and he accepted the same readily. Nothing prevented the appellants to offer more in their bids. Now, their complaint that they could have offered more than the 4th respondent is imaginative and speculative. Further, while refuting the allegations of the appellant in W.A.No.1910 of 2004 that though the auction was knocked down on 20-10-2004 and it was offered to the 4th respondent on the very same day, he failed to deposit 25% of the bid amount on the next working day i.e., 23-10-2004 (21st and 22nd being public holidays) and offering the same in favour of the 4th respondent on 24-10-2004 was bad, learned counsel stated that till 23-10-2004 no decision was taken by the authorities for switching over to the third method of district as one package. Since the first method of 22 individual reaches failed, the authorities switched over to the third method on 24-10-2004 and the bid was knocked down in favour of the 4th respondent and the same was informed to the 4th respondent on 24-10-2004 and he deposited 25% of the knocked down amount on the same day. Therefore, the contention of the learned counsel for the appellants that having finalized the auction in the first method, it must be deemed that the other two methods were cancelled, is untenable. Learned counsel further contended that this is not the purport of the very notification. The notification contemplates three methods of bidding and clause (4) of the Note thereof makes it abundantly clear that the district level committee is empowered to follow any one of the methods, which would fetch more Revenue to the State. This is known to one and all, who participated in the auction. In this case, admittedly, when the first method failed, the authorities switched over to the third method, which would fetch more revenue to the State. The appellants had accepted all the conditions of the notification with eyes wide open and now it does not lie in their mouth to complain as to the methodology followed by the District Level Committee. In support of his contentions, the learned counsel relied upon the decisions of the Apex Court reported in **TATA CELLULAR v. UNION OF INDIA** and **AIR INDIA LTD. v. COCHIN INTERNATIONAL AIRPORT LTD.**

In **TATA CELLULAR** case (1 supra), it was held as under:

> "85**.** It cannot be denied that the principles of judicial review would apply to the exercise of contractual powers by Government bodies in order to prevent arbitrariness or favouritism. However, it must be clearly stated that there are inherent limitations in exercise of that power of judicial review. *Government is the guardian of the finances of the State. It is expected to protect the financial interest of the State*. The right to refuse the lowest or any

other tender is always available to the Government. But, the principles laid down in Article 14 of the Constitution have to be kept in view while accepting or refusing a tender. There can be no question of infringement of Article 14 if the Government tries to get the best person or the best quotation. The right to choose cannot be considered to be an arbitrary power. Of course, if the said power is exercised for any collateral purpose the exercise of that power will be struck down.

86**.** Judicial quest in administrative matters has been to find the right balance between the administrative discretion to decide matters whether contractual or political in nature or issues of social policy; thus they are not essentially justiciable and the need to remedy any unfairness. Such an unfairness is set right by judicial review.

93. The duty of the court is to confine itself to the question of legality. Its concern should be :

1. Whether a decision-making authority exceeded its powers?

2. Committed an error of law,

3. committed a breach of the rules of natural justice,

4. reached a decision, which no reasonable tribunal would have reached or,

5. abused its powers."

In **AIR INDIA**'s case (2 supra), it was observed as under:

"7. The law relating to award of a contract by the State, its corporations and bodies acting as instrumentalities and agencies of the Government has been settled by the decision of this Court in *Ramana Dayaram Shetty* v. *International Airport Authority of India*[1], *Fertilizer Corpn. Kamgar Union (Regd.)* v. *Union of India*[2], *CCE* v. *Dunlop India Ltd.*[3], *Tata Cellular* v. *Union of India*[4], *Ramniklal N. Bhutta* v. *State of Maharashtra*[5] and *Raunaq International Ltd.* v. *I.V.R. Construction Ltd.*[6] The award of a contract, whether it is by a private party or by a public body or the State, is essentially a commercial transaction. In arriving at a commercial decision considerations which are paramount are commercial considerations. The State can choose its own method to arrive at a decision. It can fix its own terms of invitation to tender and that is not open to judicial scrutiny. It can enter into negotiations before finally deciding to accept one of the offers made to it. Price need not always be the sole criterion for awarding a contract. It is free to grant any relaxation, for bona fide reasons, if the tender conditions permit such a relaxation. It may not accept the offer even though it happens to be the highest or the lowest. But the State, its corporations, instrumentalities and agencies are bound to adhere to the norms, standards and procedures laid down by them and cannot depart from them arbitrarily. Though that decision is not amenable to judicial review, the court can examine the decision-making process and interfere if it is found vitiated by mala fides, unreasonableness and arbitrariness. The State, its corporations, instrumentalities and agencies have the public duty to be fair to all concerned. Even when some defect is found in the decision-making process the court must exercise its discretionary power under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The court should always keep the larger public interest in mind in order to

decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the court should intervene."

We have given our anxious consideration to the various contentions raised by either side and perused the entire material on record including the impugned Judgment.

Admittedly, none of the appellants have questioned the notification dated 3-10-2004 or the procedure followed thereafter in knocking down the bids. All the appellants had participated in the process, subject to the conditions laid down in the notification. In fact, even before conducting the auctions, on 27-9-2004, the District Level Committee held a meeting with the contractors. The contractors suggested that it is better to conduct auctions by clubbing certain reaches as packages. After having discussions with the contractors, the Committee proposed to conduct auctions to the sand bearing reaches situated in West Godavari District in the aforesaid three methods. Thus, the procedure followed by the Committee in conducting the auctions was within the knowledge of each and every appellant herein. The notification contemplates three methods of inviting tenders and it also gives powers to the Committee to decide to knock it down in favour of any one of the methods, which fetches more revenue to the State. In this case, admittedly, the following bid amounts were fetched under the three methods in the auction that was conducted on 20-10-2004.

(1) 22 reaches separately Rs.2,80,98,692/-

(2) 22 reaches as six packages Rs.1,87,63,639/-

(3) 22 reaches as single package Rs.2,73,50,000/-

Therefore, on 21-10-2004, the District Level Committee met and resolved to ask the 18 highest bidders in the auction conducted in the first method i.e. reach-wise, to pay 25% of the knocked down amount before 5.00 p.m. of 23-10-2004, since the total bid amount derived in this method was the highest one. This method failed. The highest bidders of 22 individual reaches were asked to pay 25% of the bid amount, a meeting was also convened with 13 bidders and requested them to see that all the bidders pay 25% of the amount. Only 8 highest bidders of individual reaches came forward for payment of the amount, one Kakarla Ramaiah, highest bidder of Prakkilanka reach submitted a representation stating that he was not able to pay the

bid amount and requested for cancellation and ten highest bidders failed to pay 25% of the bid amount, which reduced the amount nearly to Rs.1.20 crores; therefore, the matter was placed before the District Level Committee for its decision. The District Level Committee on 24-10-2004 in view of the failure of the first method, took a decision to issue confirmation in favour of the highest bidder of the District Package after payment of 25% of the knocked down amount i.e. 4th respondent herein and rejected individual package method. Respondent No.4 paid 25% of the knocked down amount on the very same day, he also thereafter paid the entire amount, the auction was confirmed in his favour and he had commenced quarrying. It may be noticed that in the first resolution passed on 21-10-2004, the District Level Committee though took a decision to ask the 18 highest bidders in the auction of the individual reaches to pay 25% of the knocked down amount, but the resolution did not say that the bids received in the other method were rejected. Whereas, in the resolution passed on 24-10-204, it was categorically stated that it was resolved to reject the individual package method, which earlier offered and knocked down. This itself would show that as per Clause-4 of the Note appended to the notification, the Committee is empowered to shift to the best method of the bids taking the interest of the revenue of the State into consideration. Therefore, the District Level Committee did not resolve to reject the other methods on 21-10-2004, whereas in the resolution dated 24-10-2004 it had categorically rejected the individual package method after knocking down the bid in respect of the third method. Thus, the contention of the learned counsel for the appellants that since initially the bid was knocked down in favour of the individual reaches, it must be deemed that it had been rejected insofar as the other two methods are concerned, cannot be accepted. That was not the intendment of the notification. Therefore, the question of issuing fresh notification and also inviting tenders or inviting all the bidders for negotiations does not arise. When the highest bid of the 4th respondent was knocked down, he was asked to pay the maximum amount that fetched under the method of 22 individual reaches and he readily agreed and paid the amount. This was done only in the public interest, which fetched maximum revenue to the State.

A faint effort was also made by all the learned counsel appearing for the appellants that the very procedure adopted right from the date of notification to the finalization of the bids was contrary to the Rules. But, admittedly, no such specific plea was taken in their respective writ petitions. They have not raised such questions of law, may

be, for the reason that they have participated in the auction consciously and were asserting that they are entitled for the knocking down of the bid in their favour and sought for such a relief. Therefore, such a contention, at this stage cannot be accepted. All the appellants have subjected themselves to the entire process of auction. It is not their case that the auction was not properly conducted or that there was no transparency in conducting the auction. It is also not their case that knocking down of the bid in favour of the 4th respondent, resulted in loss to the revenue of the State. We have been taken through the different provisions of the Rules. There may be certain irregularities in the very publication of the notification and also the authority to do so. But, in view of the above facts, that cannot be gone into and in this backdrop, the only question that falls for consideration is whether the decision taken by the official respondents suffers from any prejudice to the public interest.

In the entire Rules, there is no provision which speaks that the bid should be knocked down on the very same day i.e. 20-10-2004. On the other hand, omnibus power is conferred on the District Level Committee to decide the matter as it likes and the same was made clear in the notification itself. There is also no Rule, which contemplates that when the method is switched over by the Committee, all the bidders should be informed and they should be called for negotiations etc.

In a case like this, as rightly contended by Sri C.V. Mohan Reddy, learned counsel for the 4th respondent, even if there are some infractions here and there, whether any prejudice was caused to the public interest is alone to be looked into and not as to any procedure, which was followed. None of the appellants had questioned the procedure followed either at the time of participating in the bids or in the writ petitions before this Court, specifically. It is also not permissible for them to raise such questions, since they have subjected themselves and participated in pursuance of the said notification. Even before this Court, it is their contention that when once the 4th respondent was called for negotiations, they should also have been invited for negotiations. In fact, the official respondents have emphatically stated in their counter that they have not made any negotiations with the 4th respondent exclusively. Except the *ipse dixit* of the appellants, there is no material placed before the Court that the authorities had negotiations with the 4th respondent. Therefore, the learned single Judge has rightly held that the whole edifice of the appellants-writ petitioners was based on the challenge to the increase of the bid

amount fetched in the district package amounts to negotiations with the 4th respondent, who failed to deposit 25% of the bid amount on the next day. Further, no bids were finalized on 20-10-2004. In fact, the first decision was taken on 21-10-2004 for offering it to the first method i.e. 22 reaches individually. When that failed, further decision was taken only on 24-10-2004. Therefore, the contention that the 4th respondent failed to deposit the amount on or before 23-10-2004 and thus it could have been offered to the appellant in W.A.No.1910 of 2004, who is the next highest bidder, cannot be accepted. It was knocked down in favour of the 4th respondent only on the failure of the method of 22 individual reaches separately on 24-10-2004 and he had deposited the amount on the very same day. Absolutely, there were no negotiations and it was only with an intention to get highest amount offered in the 22 individual reaches, the 4th respondent was asked to deposit the said amount for which he readily agreed. Therefore, it cannot be said that such a procedure adopted by the official respondents was either arbitrary or illegal. Respondent No.4 being the highest bidder, the auction was confirmed in his favour in the district package method and he was not called for any negotiations. It is not the case of the appellants that the decision of shifting the method and offering it to the 4th respondent was not a *bona fide* one, except making an allegation that the 4th respondent was called for negotiations, which is not there. Therefore, in the face of the *bona fide* decision of the public authority, the doctrine of expectation gets assimilated in the rule of law, when the same satisfies the test of non-arbitrariness and withstand the scrutiny of law. This Court cannot sit over in appeal against the decisions taken on administrative side when it does not suffer from arbitrariness or lack of *bona fides.* In the absence of any *mala fides* attributed to the authorities, even if there are some infractions here and there, awarding of contract to the 4th respondent does not suffer from legal infirmities. No prejudice was caused to the public interest in awarding the contract in favour of the 4th respondent. Since no prejudice was caused to the interest of the State, the judicial quest in administrative matters has been to find right balance between administrative discretion in contractual matters and any unfairness in the said action. There can be no question of infringement of the equality clause, if the Government tries to get the best person or best quotation. The right to choose cannot be considered to be an arbitrary power, unless such power is exercised for any collateral purpose. The action of the official respondents does not suffer from any of these infirmities. Thus, we find no reasons

to interfere with the impugned Judgment in dismissing the writ petitions of the appellants. The Writ Appeals fail and are liable to be dismissed.

Accordingly, the Writ Appeals are dismissed. There shall be no order as to costs.

Before parting with the case, we are compelled to observe that the issuance of very notification proposing to conduct the auction is not in conformity with the Rules. The District Level Committee itself accepted the bids and finalized the same, which is not provided for under the rules. The auction is required to be conducted by the authorities as specified in the rules and not by strangers, since none of the petitioners challenged the very notification and it is for that reason, we did not interfere with the same. It is brought to our notice that the same system is being followed throughout the State, which, in our considered opinion, is not in conformity with the Rules. Necessary instructions may have to be issued by the concerned to follow the rules and not to conduct auctions contrary to the Rules.

We must express our reservations for the manner in which the Rules have been made. The Rules are vague and indefinite in their nature apart from being mutually inconsistent. The powers and functions of the District Level Committee are required to be carefully delineated in detail. In our considered opinion, immediate attention of the State Government is required so as to undertake the amendment of the Rules removing inconsistencies and absurdities. It is not for us to suggest the details as to in what manner the Rules are required to be amended and updated and it is for the Rule making authority to consider as to in what manner the amendments are required to be made.

Copy of this Judgment be communicated to the Chief Secretary of the Government of Andhra Pradesh, Hyderabad for looking into the matter and for taking appropriate steps.

B. SUDERSHAN REDDY, J.

29th December,2004

C.V. RAMULU, J.

prk

ASSISTANT REGISTRAR

/TRUE COPY/

SECTION OFFICER

To

1 The Secretary, Government of Andhra Pradesh

Industries and Commerce Department,
Secretariat, Hyderabad.
2 The Chairman, District Level Committee, West Godavari District.
3 The District Panchayat Officer, West Godavari District, at Eluru.
4 Sai Babu Reddy, S/o. Jagadhal Reddy,
R/o. Pekeru, Eragavaram Mandalam,
W.G. District.

5. 2 CCs to Govt.Pleader for Industries and Commerce, High Court Buildings, Hyderabad (OUT)

6. 2 CD copies

7. 2 CCs to G.P for Panchayat Raj & Rural development, High Court Buildings, Hyderabad (OUT)